No. 85-906

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

In Re:

ANTHONY R. MARTIN-TRIGONA,

Petitioner,

ANTHONY R. MARTIN-TRIGONA,

Petitioner,

-against-

HAROLD LAVIEN, *et al.*

Respondents.

ANTHONY R. MARTIN-TRIGONA,

Petitioner,

-against-

WILLIAM F. SMITH, *et al.*

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR RESPONDENTS IN OPPOSITION

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QUESTION PRESENTED

Whether district courts have the authority and power to enjoin vexatious litigants?

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RELEVANT STATUTE

The relevant statute not cited by Petitioner is the All Writs Act, 28 U.S.C. 1651(a)(1976), which reads as follows:

> The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

SUMMARY OF ARGUMENT

This case is inappropriate for review on writ of certiorari. No "special and important reasons" for granting review are presented, the decision is not in conflict with those of this Court or other federal courts of appeal, and there are no important questions of federal law which have not been or should be settled by this Court.

To the contrary, the injunction issued by the District Court and affirmed by the Court of Appeals was necessary and proper in order to protect both the public and the efficient administration of justice from a vexatious litigant.

ARGUMENT

I.

PETITIONER FAILS TO SATISFY THE STANDARDS GOVERNING REVIEW ON CERTIORARI

Rule 17.1 of the Rules of the Supreme Court of the United States provides: "A review on writ of certiorari is not a matter of right, but of judicial discretion and will be granted only when there are special and important reasons therefor." In the instant case, Petitioner has not stated any such reasons for granting the writ.

In this regard, Rule 17.1 further provides that certiorari should be considered when a decision of a federal court of appeals is in conflict with another federal court of appeals, Sup. Ct. R. 17.1(a), or a federal court of appeals has decided an important issue of federal law which should be considered by the Supreme Court. Sup. Ct. R. 17.1(c). The injunction issued in this case is consistent with well-established principles of constitutional law and federal jurisdiction and does not merit review by this Court.

II.

DISTRICT COURTS HAVE THE AUTHORITY AND POWER TO ENJOIN VEXATIOUS LITIGANTS

It is well settled that a federal court has the equity power under the All Writs Act, 28 U.S.C. § 1651(a) (1976), to issue an injunction against vexatious litigants. *Matter of Hartford Textile Corp.*, 681 F.2d 895, 897 (2d Cir, 1982), *cert. denied.*, 459 U.S. 1206, 103 S. Ct. 1195, 75 L. Ed. 2d 439 (1983); *Green* v. *Warden*, 699 F.2d 364, 367-68 (7th Cir.), *cert. denied*, 461 U.S. 960, 103 S. Ct. 2436, 77 L. Ed. 2d 1321 (1983). The traditional basis for an injunction in federal courts is a showing by the party seeking the injunction that it will suffer an irreparable injury and that there is no adequate remedy at law. *Beacon Theatres, Inc.* v. *Westover*, 359 U.S. 500, 506-07, 79 S. Ct. 948, 954-55, 3 L. Ed. 2d 988, 995 (1954). These standards do not apply, however, when it is shown that a litigant has continuously instituted and pursued lawsuits which are frivolous and meritless and "have resulted in vexation, harassment and needless expense to [other parties] and have placed an unnecessary burden on the courts and their supporting personnel." *Matter of Hartford Textile Corp.*, 681 F.2d at 897.

In the instant case, the District Court made specific findings of fact which showed that in the bankruptcy actions pending in that Court alone, Petitioner had: (1) prevented the fair and efficient administration of the bankruptcy estate; (2) used legal processes solely to harass parties to federal litigation, their counsel, judicial personnel, and their families; (3) deprived such adverse parties of their right to unimpaired access to the federal courts and to efficient administration of claims asserted under federal law; and, (4) injured all litigants and potential litigants in the District Court by diverting considerable judicial resources to his voluminous litigation.

Therefore, injunctive relief was appropriate and necessary in order to protect both those parties who had been repeatedly harassed by Petitioner and the jurisdiction of the federal courts. Petitioner's arguments that the injunction was merely used to

brandish him an "anti-semite" and was motivated by judicial spite (Petition, pp. 7-8) are without merit. It is apparent that the injunction was both warranted by the record and issued in accordance with the authority vested in the federal courts.

CONCLUSION

Based upon the foregoing, the petition for a writ of certiorari should be denied.

Respectfully Submitted,

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